§ 125.14 What are SDVO contracts?

SDVO contracts are contracts awarded to an SDVO SBC through a sole source award or a set-aside award based on competition restricted to SDVO SBCs.

§ 125.15 What requirements must an SDVO SBC meet to submit an offer on a contract?

(a) *Representation of SDVO SBC status.* An SDVO SBC must submit the following representations with its initial offer (which includes price) on a specific contract:

(1) It is an SDVO SBC;

(2) It is small under the NAICS code assigned to the procurement;

(3) It will meet the percentage of work requirements set forth in § 125.6;

(4) If applicable, it is an eligible joint venture; and

(5) If applicable, it is an eligible non-manufacturer.

(b) *Joint ventures.* An SDVO SBC may enter into a joint venture agreement with one or more other SBCs for the purpose of performing an SDVO contract.

(1) Size of concerns to an SDVO SBC joint venture.

(i) A joint venture of at least one SDVO SBC and one or more other business concerns may submit an offer as a small business for a competitive SDVO SBC procurement so long as each concern is small under the size standard corresponding to the NAICS code assigned to the contract, provided:

(A) For a procurement having a revenue-based size standard, the procurement exceeds half the size standard corresponding to the NAICS code assigned to the contract; or

(B) For a procurement having an employee-based size standard, the procurement exceeds $10 million;

(ii) For sole source and competitive SDVO SBC procurements that do not exceed the dollar levels identified in paragraphs (b)(1)(i)(A) and (B) of this section, an SDVO SBC entering into a joint venture agreement with another concern is considered to be affiliated for size purposes with the other concern with respect to performance of the SDVO contract. The combined annual receipts or employees of the concerns entering into the joint venture must meet the size standard for the NAICS code assigned to the SDVO contract.

(2) Contents of joint venture agreement. Every joint venture agreement to perform an SDVO contract must contain a provision:

(i) Setting forth the purpose of the joint venture;

(ii) Designating an SDVO SBC as the managing venturer of the joint venture, and an employee of the managing venturer as the project manager responsible for performance of the SDVO contract;

(iii) Stating that not less than 51% of the net profits earned by the joint venture will be distributed to the SDVO SBC(s);

(iv) Specifying the responsibilities of the parties with regard to contract performance, source of labor and negotiation of the SDVO contract;

(v) Obligating all parties to the joint venture to ensure performance of the SDVO contract and to complete performance despite the withdrawal of any member;

(vi) Requiring the final original records be retained by the managing venturer upon completion of the SDVO contract performed by the joint venture;

(3) *Performance of work.* For any SDVO contract, the joint venture must perform the applicable percentage of work required by § 124.510 of this chapter.

(4) *Contract execution.* The procuring activity will execute an SDVO contract in the name of the joint venture entity or SDVO SBC.

(5) *Inspection of records.* SBA may inspect the records of the joint venture without notice at any time deemed necessary.

(c) *Non-manufacturers.* An SDVO SBC which is a non-manufacturer may submit an offer on an SDVO contract for supplies if it meets the requirements of the non-manufacturer rule set forth at § 121.406(b)(1) of this chapter.

[69 FR 25268, May 5, 2004, as amended at 70 FR 14527, Mar. 23, 2005]

§ 125.16 Does SDVO SBC status guarantee receipt of a contract?

No, SDVO SBCs should market their capabilities to appropriate procuring agencies in order to increase their